

## REMARKS

5. Claims 26 and 30 are objected to because of certain informalities.

Claims 26 and 30 have been amended to eliminate the aforesaid informalities. Applicants, therefore, respectfully request the amendments be entered and the objection be withdrawn. The requested amendments address informalities identified by the Examiner in the Office Action of 12/17/07, which amendments are of the type permissible under 37 C.F.R. §1.116.

7. Claims 1, 3-6, and 22-33 are rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4-7 and 9 of U.S. Patent application no. 10/762,104.

U.S. patent application no. 10/762,104 is currently pending. Consequently, it is premature to determine whether a double patenting rejection is appropriate. Upon the allowance of claims in the '104 application, a determination regarding the appropriateness of the present non-statutory double patenting rejection can be made. Applicants therefore respectfully request that this rejection be held in abeyance until such time as claims in the '104 application are allowed. Upon such an event, the appropriateness of a terminal disclaimer can be considered as a means to overcome the present rejection.

8. Claims 1-7 and 22-39 are rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent no. 7,179,538 alone, or in view of U.S. Patent No. 2,732,325 (hereinafter "Lindenfeiser"), U.S. Patent 3,589,974 (hereinafter "Albrinck"), U.S. Patent 4,132,821 (hereinafter "Hiers").

At present, claims 1-7 and 22-39 are the subject of rejections other than the above-described double patenting rejection. Consequently, it is not yet clear if claims will issue in the present application, or if claims will issue, the form of those allowed claims. Applicants respectfully request that this rejection be held in abeyance until claims are allowed but for the above-described double patenting rejection, at which case the rejection can be properly addressed.

10. Claims 1-2 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2,721,817 (hereinafter “Hastings”).

The rejection provides that Hastings discloses a laminate having a composite layer having a support layer 12 and an adhesive layer 14. Applicants respectfully disagree with this characterization of Hastings and the rejection based thereon.

Claim 1 of the present application recites a heat and pressure consolidated laminate, that comprises in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin; and b) a first decorative layer consisting essentially of leather. Claim 2 recites that the thermosetting resin is a phenol-formaldehyde resin.

Hastings provides a flexible sheet material having a decorative design thereon. According to Hastings, the problem to be overcome is that irregularities on the surface of a material such as suede leather “resist the uniform application of color”. (col.1, lines 38-39) To overcome that problem, Hastings teaches that adhesives may be applied to a support material. The adhesive coated support material 12 is placed on top of a stencil 11, which is placed on top of a pliable material 10. Pressure is applied to the support material. As a result, adhesive is forced through openings in the stencil, and such adhesive is affixed to the surface of the pliable material. The support material and the stencil are removed, “leaving a colored design on a background corresponding to the original color of the material 10.” (col.2, lines 67-71). The end product is a pliable material with a pattern of adhesive affixed to a surface.

Clearly, the colored sheet material disclosed by Hastings is not a heat and pressure consolidated laminate, one that includes a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin, and a first decorative layer consisting essentially of leather, as is recited in claims 1 and 2. The layers referred to within the rejection as being a part of the laminate, are not part of a product at all. Rather, they are

materials used within a method of applying a decorative design to a substrate. Both the support layer and the stencil are removed after the adhesive is applied to the surface of the pliable material. The end product taught by Hastings is a pliable material with a pattern of adhesive affixed to the surface – which is not a heat and pressure consolidated laminate as is recited in present claims 1 and 2.

Applicants respectfully submit further that the aforesaid laminate is also not obvious in view of the disclosure of Hastings. The rejection provides that it would be obvious to make “integral of separate parts” and thereby arrive at the claimed laminate from the disclosure of Hastings. Applicants respectfully disagree.

Applicants acknowledge the Supreme Court’s opinion in *KSR International, Inc., v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007):

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. (*KSR* at 1740.)

Such is not the case here, however. Hastings teaches a solution to the problem of printing on a pliable material having an irregular surface. The solution involves applying adhesive to a substrate, and pressing that adhesive through a stencil so that a design of the adhesive may be affixed to the outer surface of the pliable material. The end product is not a predictable variation of the heat and pressure consolidated laminate recited in claims 1 and 2 – it is not a heat and pressure consolidated laminate at all. The core layer of the presently claimed laminate provides the laminate with structural integrity. It is the core layer material (e.g., at least one cellulosic sheet) impregnated with resin, which is cured by the application of heat and pressure, that provides the structural integrity. There is no such structure within the printed pliable material of Hastings. Consequently, a fair reading of the prior art illustrates well that the claimed laminate is not a predictable variation of the printed pliable material of Hastings.

In light of the foregoing, it is respectfully submitted that the rejection of claims 1-2 is not valid and it is respectfully requested that the rejection be withdrawn and the claims 1-2 be allowed.

11. Claims 1-2, 4-6, and 24-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,698,978 (“McQuade”) in view of Hastings.

The rejection provides that McQuade discloses a high pressure laminate comprising core sheets, a decorative print sheet, and overlay sheets, but does not disclose a decorative sheet to be “essentially leather”. The rejection provides further that Hastings provides a decorative laminate, and that it would have been obvious to one of ordinary skill in the art to have used leather, as taught by Hastings, in the decorative layer of McQuade because simulated and natural leathers have been used as alternatives in the prior art. Applicants respectfully disagree with the characterization of McQuade and Hastings and the rejection based thereon.

Hastings, as is detailed above, discloses a pliable material with a printed design disposed thereon, and does not disclose a decorative laminate – including a heat and pressure consolidated laminate.

McQuade, on the other hand, discloses a laminate including a print sheet comprising a cellulosic sheet and a pattern that provides an appearance that simulates leather. (See Col. 2, lines 43-46; Col. 3, lines 20-28) This print sheet is not a leather material, as is recited in claim 1. Nor is it a “simulated” leather material in that it does not feel or smell like real leather. There is, in fact, no teaching whatsoever within McQuade of a leather being used in a laminate. On the contrary, McQuade teaches away from using leather: “With the rising cost of natural products, such as wood and leather, it has become even more desirable to provide irregularly surfaced high pressure laminates which simulate these natural products.” (See Col. 1, lines 50-53)

Consequently, it is clear that: 1) McQuade and Hastings disclose completely different products (e.g., a laminate vs. a substrate to be printed on); 2) the teachings of McQuade directly contradict the suggestion within the rejection that natural leather may be used as an alternative to the print sheet 10 with decorative printing disposed within the

laminate of McQuade; and 3) the presently claimed laminate is not a predictable variation of either McQuade or Hastings alone, or in combination.

In light of the foregoing, it is respectfully submitted that the rejection of claims 1-2, 4-6 and 24-25 is not valid and it is respectfully requested that the rejection be withdrawn and the claims 1-2, 4-6, and 24-25 be allowed.

12. Claims 1-2 and 4-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,700,537 (“Scher”) in view of Hastings.

The rejection provides that Scher discloses a laminate comprising core sheets, a decorative print sheet, and overlay sheets. According to the rejection, the print sheet is with decorative printing, and is simulated leather (the cited support-col. 2, lines 20-21-is not relevant to simulated leather). The rejection provides further that Hastings provides a decorative laminate, and that it would have been obvious to one of ordinary skill in the art to have used leather, as taught by Hastings, in the decorative layer of Scher because simulated and natural leathers have been used as alternatives in the prior art. Applicants respectfully disagree with the characterization of Scher and Hastings and the rejection based thereon.

Hastings, as is detailed above, discloses a pliable material with a printed design disposed thereon, and does not disclose a decorative laminate – including a heat and pressure consolidated laminate.

Scher discloses an abrasion resistant laminate, and a method for making the same. The objects of the invention include the provision of a laminate that: 1) meets the NEMA abrasion standard without an overlay sheet; and 2) uses conventional base papers for printing of the pattern. (col. 5, lines 40-50) The abrasion resistant laminate includes a print layer 16 made of conventional construction, preferably of alpha-cellulose paper impregnated with melamine formaldehyde resin. (Col. 5, lines 18-21) Scher indicates that it is desirable to “produce high pressure laminates with deeply embossed surfaces that duplicate natural products such as slate, leather, and wood” (Col. 2, lines 47-56), and that it is an object of the invention to produce such laminates in a simplified and inexpensive manner (col. 5, lines 60-65). Hence, Scher teaches that it is desirable to produce an inexpensive, high pressure laminate that duplicates, but does not use,

a natural product such as leather. There is no disclosure or suggestion within Scher that a high pressure laminate could be made less expensively by substituting a natural material such as leather in place of a cellulosic print sheet made to look like leather. On the contrary, Scher goes to great lengths to disclose embossing techniques operable to create a laminate that looks like but is less expensive than a laminate with a leather decorative layer. (e.g., See Col. 1, lines 24-27; Col. 3, lines 62-68) In addition, Scher discloses an advantage of providing a laminate that looks like, but does not contain, actual leather is the enhanced durability and scuff resistance provided by the high pressure laminate with a paper decorative layer versus a laminate with a natural product such as leather. (e.g., see Scher: Col. 2, lines 47-52)

Consequently, it is clear that: 1) Scher and Hastings disclose completely different products (e.g., a laminate vs. a substrate to be printed on); 2) the teachings and objectives of Scher directly contradict the suggestion within the rejection that natural leather may be used as an alternative to the decorative print sheet disposed within the laminate of Scher; and 3) the presently claimed laminate is not a predictable variation of either Scher or Hastings alone, or in combination.

In light of the foregoing, it is respectfully submitted that the rejection of claims 1, 2, and 4-6 is not valid and it is respectfully requested that the aforesaid rejection be withdrawn and the claims 1, 2, and 4-6 be allowed.

13. Claims 3, 7 and 22-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over McQuade or Scher in view of Hastings and further in view of U.S. Patent No. 2,732,325 (“Lindenfeiser”) or U.S. Patent No. 3,589,974 (“Albrinck”).

Claim 33 has been cancelled.

With regards to claims 3, 7, and 22-32, applicants respectfully direct the Examiner to the remarks above regarding McQuade, Scher, Hastings, and combinations thereof. For at least the reasons provided above, applicants respectfully submit that claims 3, 7, and 22-32 are not unpatentable under 35 U.S.C. §103(a).

The rejection indicates that neither McQuade nor Scher discloses the amount of melamine-formaldehyde resin in the core sheet, and relies upon Lindenfeiser and Albrinck as disclosing melamine-formaldehyde resin within the recited range. Independent claims 7 and 26

each recite a core layer containing a cellulosic sheet impregnated with a *phenol-formaldehyde* resin, not a *melamine-formaldehyde* resin.

Neither Lindenfeiser nor Albrinck discloses a laminate with a decorative layer consisting essentially of leather. Consequently, none of the cited references disclose the laminate recited within claims 3, 7, and 22-32, nor is the aforesaid laminate a predictable variation in view thereof.

In light of the foregoing, it is respectfully submitted that the rejection of claims 3, 7, and 22-32 is not valid and it is respectfully requested that the aforesaid rejection be withdrawn and the claims 3, 7, and 22-32 be allowed.

14. Claims 34-39 are rejected under 35 U.S.C. §103(a) as being unpatentable over McQuade or Scher in view Hastings, an further in view of U.S. Patent No. 4,132,821 ("Hiers"). The rejection does not include any explanation.

Claim 39 has been cancelled.

Regarding claims 34-38, applicant respectfully directs the Examiner to the remarks above regarding McQuade, Scher, Hastings, and combinations thereof. For at least the reasons provided above, applicants respectfully submit that claims 34-38 are not unpatentable under 35 U.S.C. §103(a).

Hiers discloses a textile fabric with a leather-like appearance. According to Hiers, the motivation for such a product is that natural leather, which is a traditional material for footwear, waist belts, aprons, pouches, etc., presents "technical difficulties in manufacture, economic difficulties in marketing, and durability problems in use." (Col. 1, lines 6-23) Hiers discloses the solution to natural leather is an artificial leather. Hence, Hiers does not disclose a laminate having natural leather, and actually teaches away from the use of natural leather for some of the same reasons disclosed by McQuade and Scher.

In short, for the reasons identified above, none of McQuade, Scher, Hastings, Hiers, or any combination thereof, disclose or suggest a laminate as is recited in claims 34-38, nor is the laminate of claims 34-38 a predictable variation thereof. In fact, as explained above McQuade, Scher and Hiers actually teach away from the claimed laminate.

In light of the foregoing, it is respectfully submitted that the rejection of claims 34-38 is not valid and it is respectfully requested that the aforesaid rejection be withdrawn and the claims 34-38 be allowed.

15. McQuade, Scher, and Hastings are as set forth in claims 1-2 and 4-6 above, and incorporated herein.

This rejection does not specify the relevant code for the rejection, and in the comments that follow refers to Hiers. Consequently, because there are multiple references, and because it refers to Hiers, it is assumed that the rejection is intended to be a obviousness-type rejection under 35 U.S.C. §103. If applicants understanding is incorrect, correction is respectfully requested.

Regarding claims 1, 2, and 4-6, applicant respectfully directs the Examiner to the remarks above regarding McQuade, Scher, Hastings, and combinations thereof. For at least the reasons provided above, applicants respectfully submit that claims 1, 2, and 4-6 are not unpatentable under 35 U.S.C. §103(a).

Hiers discloses a textile fabric with a leather-like appearance. According to Hiers, the motivation for such a product is that natural leather, which is a traditional material for footwear, waist belts, aprons, pouches, etc., presents “technical difficulties in manufacture, economic difficulties in marketing, and durability problems in use.” (Col. 1, lines 6-23) Hiers discloses the solution to natural leather is an artificial leather. Hence, Hiers does not disclose a laminate having natural leather, and actually teaches away from the use of natural leather for some of the same reasons disclosed by McQuade and Scher.

In short, for the reasons identified above, none of McQuade, Scher, Hastings, Hiers, or any combination thereof, disclose or suggest a laminate as is recited in claims 1-2 and 4-6, nor is the laminate of claims 1-2 and 4-6 a predictable variation thereof. In fact, as explained above McQuade, Scher and Hiers actually teach away from the claimed laminate.

In light of the foregoing, it is respectfully submitted that the rejection of claims 1, 2, and 4-6 is not valid and it is respectfully requested that the aforesaid rejection be withdrawn and the claims 1, 2, and 4-6 be allowed.



16. Claims 1-7, 22-32, and 34-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,432,167 (“Palmer”) in view Hastings.

The rejection provides that Palmer discloses a laminate comprising a core layer, a decorative pattern layer, an overlay layer, and a release layer. The rejection indicates that Palmer does not disclose a decorative layer essentially of leather, but that Hastings provides a decorative laminate comprising a sheet of leather, and that it would be obvious to one of ordinary skill in the art to have used leather in the decorative sheet of Palmer because leather and cellulose paper have been used as alternatives in the prior art. Applicants respectfully disagree with the characterization of Palmer and Hastings and the rejection based thereon.

Hastings, as is detailed above, discloses a pliable material with a printed designed disposed thereon, and does not disclose a decorative laminate – including a heat and pressure consolidated laminate.

Palmer discloses a method for controlling the gloss of conventional laminate (“[t]he decorative laminate 18 may be any of the many resin based decorative laminates known to those of ordinary skill in the art.” (col. 4, lines 8-10)). The laminate includes a core layer, a decorative sheet, and optionally an overlay disposed in stacked arrangement. (Col. 1, lines 37-42) The decorative sheet is typically manufactured from alpha cellulose paper impregnated with a melamine formaldehyde resin. The cellulose decorative sheet may be printed to appear like leather, and may be textured to give a three-dimensional appearance like leather. (Col.2, lines 2-36) There is no disclosure or suggestion within Palmer, however, or using a decorative sheet consisting essentially of leather. On the contrary, the method disclosed by Palmer is specifically directed toward controlling the gloss of the resin impregnated overlay and/or decorative layers of a conventional laminate, which decorative layer is not present in the claimed laminate.

The problem to be solved, according to Palmer, is to ensure that the desired gloss and texture are imparted to the decorative laminate: “a need exists for a method and an apparatus for producing decorative laminates exhibiting excellent gloss characteristics.”

Consequently, it is clear that: 1) Palmer and Hastings disclose completely different products (e.g., a laminate vs. a substrate to be printed on); 2) the teachings of Palmer are directed toward controlling the amount of gloss on a resin impregnated decorative sheet, which is not an

issue with the claimed laminate that has a decorative layer consisting essentially of leather; and  
3) the presently claimed laminate is not a predictable variation of either Palmer or Hastings alone, or in combination.

In light of the foregoing, it is respectfully submitted that the rejection of claims 1-7, 22-32, and 34-38 is not valid and it is respectfully requested that the aforesaid rejection be withdrawn and the claims 1-7, 22-32, and 34-38 be allowed.

As applicant has traversed the objections and rejections raised by the Examiner, it is respectfully requested that the Examiner withdraw the stated rejections, allow claims 1-7 and 22-32, and 34-38, and pass the present application on to issuance. If there are any fees due in connection with the filing of this response in addition to the fees for the three-month extension and Notice of Appeal, please charge them to our Deposit Account 50-3381.

Respectfully submitted,



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